

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A CRIMINAL COMPLAINT**

I, Task Force Officer Andre Smith, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a police officer employed by the Manchester Police Department in New Hampshire, and a deputized Task Force Officer (“TFO”) to the U.S. Drug Enforcement Administration’s (“DEA”) Manchester, New Hampshire District Office (“MDO”). As a DEA TFO, I am authorized to perform federal law enforcement functions outlined in 21 U.S.C. § 878(a), pursuant to cooperative enforcement arrangements authorized by 21 U.S.C. § 873(a)(7). I have been a full-time certified police officer in New Hampshire since July 2012. I am presently a Manchester Police Detective in the Special Enforcement Division. I have served as a TFO to DEA MDO since August 2023. I have completed several trainings related to narcotics and criminal interdiction hosted by various different entities, including the DEA.

2. I have participated in numerous narcotics investigations where I have used surveillance, debriefed witnesses and informants, arrested narcotics dealers and users, and served search warrants and arrest warrants. I have learned and observed the different methods that narcotics dealers and users use to sell or use narcotics.

PURPOSE OF THE AFFIDAVIT

3. I make this affidavit in support of an application for a criminal complaint charging Jesus Encarnacion (“ENCARNACION”), with one count of possession with intent to distribute controlled substances, that is five kilograms or more of cocaine, in violation of Title 21, United States Code, Sections and 841(a)(1) and (b)(1)(A)(ii).

4. The facts in this affidavit come from my personal observations, my training and experience, information obtained from other agents and witnesses, discussions that I have had

concerning this investigation with other experienced narcotics investigators, physical surveillance conducted by federal, state, and/or local law enforcement agencies, the results of which have been reported to me either directly or indirectly, and public records and law enforcement databases, among other sources. This affidavit is intended to show that there is probable cause to believe that ENCARNACION committed the charged offense and does not set forth all of my knowledge about this matter.

PROBABLE CAUSE

5. On April 4, 2024, at approximately 1:00 p.m., law enforcement officers from the Salem Police Department in Salem, Massachusetts, were working in a plain clothes capacity and operating an unmarked police vehicle. At approximately 1:15 p.m., law enforcement observed a vehicle parked at the top of Fairfield Street, in Salem, Massachusetts, with the engine running. The vehicle was subsequently identified as a black Acura MDX with New Hampshire registration ending in 916, registered to ENCARNACION (hereinafter, the “Target Vehicle”). The Target Vehicle was parked in the last space available on Fairfield Street.

6. At this time, law enforcement also observed a Chevrolet pickup truck with an Ohio registration parked on Cabot Street, which runs perpendicular to Fairfield Street, putting the vehicles in close proximity to one another. The Chevrolet pickup truck’s engine was also running.

7. As law enforcement approached the area where the Target Vehicle and the pickup truck were parked, both vehicles pulled off simultaneously and traveled down Fairfield Street toward Lafayette Street. Law enforcement maintained surveillance of the two vehicles. The Target Vehicle took a left turn onto Lafayette Street, followed by the pickup truck. The two vehicles were then observed traveling up two blocks before turning left onto Porter Street—the Target Vehicle turned first, followed by the pickup truck. Law enforcement continued surveillance

and turned down Porter Street and did not observe either vehicle for approximately thirty seconds to one minute. Law enforcement then turned onto Porter Street Court (a different street) and observed the Target Vehicle and pickup truck in a parking lot on the side of the street just past the address 10 Porter Street Court. The vehicles were both parked such that the back of the vehicles were visible. I know, based upon my investigation of ENCARNACION that, prior to this incident on April 4, 2024, ENCARNACION resided in a unit at 10 Porter Street Court, in Salem, Massachusetts.

8. Law enforcement observed that the trunk of the Target Vehicle was open and observed two heavy duty black plastic storage bins/totes with yellow lids inside of the Target Vehicle. Law enforcement also observed a Hispanic male with a short beard, subsequently identified as ENCARNACION, and a white male with a longer beard, at the vehicles. ENCARNACION and the unidentified male were carrying a third tote and moving it from the bed of the pickup truck to the Target Vehicle.

9. Law enforcement continued on Porter Street Court and then turned left (west) onto Ropes Street, which is a one-way street and parked. Since Ropes Street is a one-way street, vehicles traveling north on Porter Street Court have to turn left onto Ropes Street. Within a minute, law enforcement observed that both vehicles were on the move. First, the pickup truck backed out, turned left onto Ropes Street, and continued toward Canal Street. Immediately after that, the Target Vehicle backed out and headed toward Ropes Street.

10. ENCARNACION was the operator and only occupant of Target Vehicle.¹ As ENCARNACION slowly made the left turn onto Ropes Street, he made eye contact with the

¹ While ENCARNACION was not identified as the driver of the Target Vehicle until later, I will refer to him here by name for ease of reference.

detectives while they were in their vehicle operating in a plain clothes capacity. As the Target Vehicle pulled past the law enforcement vehicle, ENCARNACION pulled into the first available driveway on the left-hand side of the street that belonged to a multi-family residence and parked the Target Vehicle in the driveway in the closest available spot to the street. ENCARNACION exited the vehicle, locked it, and walked away appearing to talk on a cell phone. ENCARNACION walked across the street on a diagonal towards the law enforcement vehicle and stared at the vehicle the entire time. ENCARNACION passed within approximately one foot of the law enforcement vehicle.

11. At that time, law enforcement was able to call in the license plate for the Target Vehicle and learned that the Target Vehicle was registered to ENCARNACION with an address in Manchester, New Hampshire. Law enforcement reviewed a photograph of ENCARNACION and positively identified ENCARNACION as the operator of the Target Vehicle.

12. Law enforcement also reviewed ENCARNACION's criminal history. ENCARNACION's criminal history includes a 2019 conviction for possession with intent to distribute fentanyl in the District of New Hampshire, where ENCARNACION was sentenced to 41 months. *See* 18-CR-00136-SM (District of New Hampshire). ENCARNACION's federal supervision terminated in or around January 2024.

13. Law enforcement maintained surveillance on the Target Vehicle for several hours and nobody was observed returning to the Target Vehicle. During the surveillance, law enforcement observed a silver four door Honda Accord with New Hampshire registration ending in 350 circle the immediate area multiple times. Law enforcement was unable to observe the driver of the vehicle. That vehicle was also registered to ENCARNACION.

14. Law enforcement standing outside of the Target Vehicle observed two cellular phones in the center console. Law enforcement also observed from outside of the Target Vehicle that the three bins in the vehicle were lined with black bags and all three bins were zip tied.² Ultimately, in or around 5:30 p.m., the Target Vehicle was towed to Salem Police Station where it was secured.

15. As of approximately 12:00 p.m. on April 5, 2024, no inquiries had been made regarding the Target Vehicle or its return. On April 5, 2024, at approximately, 2:30 p.m., I observed the Target Vehicle at the Salem Police Department. Inside of the trunk/cargo area of the Target Vehicle, I observed from outside of the Target Vehicle three black bins with yellow lids with what appeared to be black garbage bags protruding out of the bins. I also observed from the outside of the Target Vehicle two cellular phones in the center console, one of which was ringing continuously.

16. Later that day, on April 5, 2024, the Target Vehicle was searched pursuant to a state search warrant. Inside of the vehicle, law enforcement recovered three plastic tough tote bins with yellow lids, lined with garbage bags, filled with packages wrapped tightly in green cellophane. The bins contained approximately 15 kilograms, 28 kilograms, and 27 kilograms, respectively, for a total of approximately seventy kilograms of suspected narcotics. The suspected narcotics were provided to the laboratory, which confirmed that they were approximately 69.91 kilograms of a mixture and substance containing cocaine.

² Law enforcement requested a k9 trained in drug detection respond to the area. Law enforcement responded with a K9 unit. Law enforcement deployed the K9 around the vehicle however there were no positive alerts. It should be noted that the weather at this time was windy with a mix of rain and snow. Additionally, as outlined below, the narcotics were packaged in in heavy duty tote bins, lined with garbage bags, and the packages were sealed in green cellophane.

17. Also in the vehicle, law enforcement found a New Hampshire Registry of Motor Vehicles renewal registration document for the Target Vehicle in the name of ENCARNACION, a T-Mobile receipt in the name of another individual, three cellular telephones, approximately \$129.25, and a Maryland traffic citation for the Target Vehicle in the name of another individual with the address 10 Porter Street Court, in Salem, Massachusetts, dated January 2024, among other things.

CONCLUSION

18. Based on the foregoing, there is probable cause to believe that on April 4, 2024, Jesus ENCARNACION did possess with intent to distribute controlled substances, that is five kilograms or more of cocaine, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A)(ii).

Respectfully Submitted,

TFO Andre Smith

ANDRE SMITH
Task Force Officer
Drug Enforcement Administration

Sworn to and sworn in accordance with the requirements of Fed. R. Crim. P. 4.1 on April 22, 2024.

Jennifer C. Boal

HONORABLE JENNIFER C. BOAL
United States Magistrate Judge

